



## ENVIRONMENTAL PROTECTION AGENCY

### 40 CFR Parts 52 and 81

[EPA-R08-OAR-2021-0808; FRL-9595-02-R8]

#### Approval and Promulgation of Implementation Plans; Montana; Whitefish PM<sub>10</sub>

#### Nonattainment Area Limited Maintenance Plan and Redesignation Request

**AGENCY:** Environmental Protection Agency (EPA).

**ACTION:** Final rule.

**SUMMARY:** The Environmental Protection Agency (EPA) is approving the Limited Maintenance Plan (LMP) submitted by the State of Montana to EPA on August 6, 2021, for the Whitefish Moderate nonattainment area (NAA) for particulate matter with an aerodynamic diameter less than or equal to a nominal 10 micrometers (PM<sub>10</sub>) and concurrently redesignating the NAA to attainment for the 24-hour PM<sub>10</sub> National Ambient Air Quality Standard (NAAQS). In order to approve the LMP and redesignation, EPA determined that the Whitefish NAA has attained the 1987 24-hour PM<sub>10</sub> NAAQS of 150 µg/m<sup>3</sup>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2015 through 2020. The EPA is taking this action pursuant to the Clean Air Act (CAA).

**DATES:** This rule is effective on [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The EPA has established a docket for this action under Docket ID No. EPA-R08-OAR-2021-0808. All documents in the docket are listed on the <http://www.regulations.gov> website. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available through <http://www.regulations.gov>,

or please contact the person identified in the **FOR FURTHER INFORMATION CONTACT** section for additional availability information.

**FOR FURTHER INFORMATION CONTACT:** Kate Gregory, Air and Radiation Division, U.S. Environmental Protection Agency (EPA), Region 8, Mail Code 8P-ARD-QP, 1595 Wynkoop Street, Denver, Colorado 80202-1129, telephone number: (303) 312-6175, email address: gregory.kate@epa.gov.

**SUPPLEMENTARY INFORMATION:** Throughout this document “we,” “us,” and “our” means the EPA.

## **I. Background**

The background for this action is discussed in detail in our March 8, 2022 proposal (87 FR 12912). In that document, we proposed to approve the LMP for the Whitefish NAA and the State's request to redesignate the Whitefish NAA from nonattainment to attainment for the 1987 24-hour PM<sub>10</sub> NAAQS. Additionally, we proposed to determine that the Whitefish NAA has attained the NAAQS for PM<sub>10</sub>. That determination was based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2015 through 2020. Finally, in our March 8, 2022 proposal, EPA proposed to approve the Whitefish LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

The public comment period on the EPA's proposed rule opened on March 8, 2022, the date of its publication in the *Federal Register* (87 FR 12912) and closed on April 7, 2022. During this comment period we received no comments on our proposal.

## **II. Environmental Justice Considerations**

As discussed on the proposed rule, to identify environmental burdens and susceptible populations in underserved communities in the Whitefish area, we performed a screening-level analysis using the EPA's environmental justice (EJ) screening and mapping tool

(“EJSCREEN”).<sup>1</sup> The results of this screening level analysis are described in our proposed rule (87 FR 12912). This action addresses a plan for continued attainment of the 1987 PM<sub>10</sub> NAAQS for the Whitefish area. Approval of this plan does not impose any additional regulatory requirements on sources beyond those imposed by state law. As discussed in our proposed rule, Montana has demonstrated that the Whitefish area is attaining the 1987 PM<sub>10</sub> NAAQS and the Whitefish Maintenance Plan provides for the maintenance of the NAAQS for 10 years beyond redesignation. For these reasons, this action will not result in disproportionately high and adverse human health or environmental effects on communities with environmental justice concerns.

### **III. Final Action**

For the reasons explained in our proposed action, we are approving the LMP for the Whitefish NAA and the State's request to redesignate the Whitefish NAA from nonattainment to attainment for the 1987 24-hour PM<sub>10</sub> NAAQS. Additionally, the EPA is determining that the Whitefish NAA has attained the NAAQS for PM<sub>10</sub>. This determination is based upon monitored air quality data for the PM<sub>10</sub> NAAQS during the years 2015 through 2020. The EPA is approving that the Whitefish LMP as meeting the appropriate transportation conformity requirements found in 40 CFR part 93, subpart A.

### **IV. Statutory and Executive Order Reviews**

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable Federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, the EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely approves state law as meeting Federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

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<sup>1</sup> See 'Whitefish NAA EJSCREEN' document available in docket

- Is not a “significant regulatory action” subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have Federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);
- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this action and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the *Federal Register*. A major rule cannot take effect until 60 days after it is published in the *Federal Register*. This action is not a “major rule” as defined by 5 U.S.C. 804(2).

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this action for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements (see section 307(b)(2)).

### **List of Subjects**

#### *40 CFR Part 52*

Environmental protection, Air pollution control, Carbon monoxide, Greenhouse gases, Incorporation by reference, Intergovernmental relations, Lead, Nitrogen dioxide, Ozone, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

#### *40 CFR Part 81*

Environmental protection, Air pollution control, National parks, and Wilderness areas.

**Authority:** 42 U.S.C. 7401 *et seq.*

Dated: May 24, 2022

KC Becker,  
Regional Administrator,  
Region 8.

40 CFR parts 52 and 81 are amended as follows:

**PART 52—APPROVAL AND PROMULGATION OF IMPLEMENTATION PLANS**

1. The authority citation for part 52 continues to read as follows:

**Authority:** 42 U.S.C. 7401 *et seq.*

**Subpart BB—Montana**

2. In §52.1370, the table in paragraph (e) is amended by adding the entry “Whitefish 1987 PM<sub>10</sub> Limited Maintenance Plan” under the heading entitled “(3) Flathead County” at the end of the section to read as follows:

**§52.1370 Identification of plan.**

\* \* \* \* \*

(e) \* \* \*

Title/Subject	State effective date	Notice of final rule date	NFR Citation
* * * * *			
<b>(3) Flathead County</b>			
* * * * *			
Whitefish 1987 PM <sub>10</sub> Limited Maintenance Plan		[insert date of publication in the Federal Register]	[insert Federal Register citation]
* * * * *			

3. In §52.1374, add paragraph (g) to read as follows:

**§52.1374 Control strategy: Particulate matter.**

\* \* \* \* \*

(g) On August 6, 2021, the State of Montana submitted limited maintenance plans for the Whitefish PM<sub>10</sub> nonattainment areas and requested that this area be redesignated to attainment for the PM<sub>10</sub> National Ambient Air Quality Standards. The redesignation request and limited maintenance plans satisfy all applicable requirements of the Clean Air Act.

**PART 81—DESIGNATION OF AREAS FOR AIR QUALITY PLANNING PURPOSES**

4. The authority citation for part 81 continues to read as follows:

**Authority:** 42 U.S.C. 7401, *et seq.*

**Subpart C—Section 107 Attainment Status Designations**

5. In §81.327, in the table entitled “Montana-PM-10” under the entry “Flathead County:” revise the fourth entry to read as follows:

**§81.327 Montana.**

\* \* \* \* \*

Montana - PM-10

Designated Area	Designation		Classification	
	Date	Type	Date	Type
* * * * *				
Flathead County:				
* * * * *				
The City of Whitefish and surrounding vicinity bounded by lines from Universal Transmercator (UTM) coordinates 695000 mE, 5370000 mN, east to 699000 mE, 5370000 mN, south to 699000 mE, 5361000 mN, west to 695000 mN, 5361000 mN, and north to 695000 mE, 5370000 mN	[insert date 30 days after date of publication in the Federal Register]	Attainment		
* * * * *				

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